

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BRENDA L HARRIS**

Claimant

**APPEAL 20A-UI-10082-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PACKERS SANITATION SERVICES INC**

Employer

**OC: 04/26/20**

**Claimant: Respondent (6)**

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Iowa Code § 96.19(38) – Definitions – Total, partial unemployment  
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search  
Iowa Code § 96.7(2)A(2) – Charges – Same base period employment  
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation  
Iowa Code § 96.6(2) – Filing – Timely Appeal  
Iowa Code § 17A.12(3) – Default Decision  
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

**STATEMENT OF THE CASE:**

Employer filed an appeal from the August 4, 2020 (reference 02) unemployment insurance decision that allowed benefits. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for October 7, 2020, at 10:00 a.m. A review of the Appeals Bureau's conference call system indicates that the appellant was not available at the telephone number provided for the scheduled hearing and no hearing was held.

**ISSUE:**

Whether the appeal should be dismissed based on the appellant's failure to appear and participate.

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing for this appeal. The appellant was not available at the telephone number provided for the scheduled hearing and did not participate or request a postponement of the hearing as required by the hearing notice. Official notice of the Clear2there hearing control screen is taken to establish that appellant did not answer when called at the number provided at registration.

The hearing notice instruction specifically advises parties of the date and time of the hearing. It also states:

**IMPORTANT NOTICE!**

YOU MUST PROVIDE YOUR PHONE NUMBER TO THE APPEALS BUREAU AS SOON AS POSSIBLE. If you do not follow these instructions, the judge will not call you for the hearing.

The back page of the hearing notice provides further instruction and warning:

**Failure to Participate or Register for Appeal Hearing**

If you do not participate in the hearing, the judge may dismiss the appeal or issue a decision without considering your evidence. The Appeals Bureau does not have a phone number for this hearing unless you provide it to us by following the instructions on the other side of this page. If you do not follow those instructions, the judge will not call you for the hearing. 871 IAC 26.14(7)

The information quoted above also appears on the hearing notice in Spanish.

As a courtesy to the appellant the record was left open for a minimum of 15 minutes after the hearing start time to give the appellant a reasonable opportunity to participate. Holding the appellant in default for failure to appear and participate during a 15-minute window after the hearing start time is reasonable considering the time allocated for unemployment hearings.

The representative's decision concluded that claimant was eligible for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

The Iowa Administrative Procedure Act at Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a hearing after proper service of notice, the judge may enter a default decision or proceed with the hearing and make a decision in the absence of the party.

Iowa Admin. Code r. 26.14(7) provides, in pertinent part:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provide in Iowa Code section 17A.12(3).

In this case, the appellant was not available at the telephone number provided at registration. The appellant is in default. The appeal should be dismissed.

If the appellant disagrees with this decision, the appellant may appeal the decision directly to the Employment Appeal Board, whose address is listed at the top right caption.

**DECISION:**

The August 4, 2020 (reference 02) unemployment insurance decision allowing benefits remains in effect, as the appellant is in default and the appeal is dismissed.



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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

October 9, 2020

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Decision Dated and Mailed

acw/sam